

**GENERAL GOVERNMENT CABINET
Personnel Board
(Amendment)**

101 KAR 1:345. Disciplinary actions.

RELATES TO: KRS 18A.020, 18A.075, 18A.0751, 18A.095, 29 U.S.C. 201

STATUTORY AUTHORITY: KRS 18A.075 (1) [~~Chapter 13A~~], 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 specifies that the Personnel Board promulgate comprehensive administrative regulations for the classified service governing dismissals, suspensions, fines, and other disciplinary measures. This administrative regulation describes conditions for instituting disciplinary measures and the manner of notification. [~~KRS 18A.095 relates specifically to dismissals, suspensions and other penalizations. KRS 18A.020 relates, in part, to written reprimands. This administrative regulation will replace 101 KAR 1:340 which includes repetition of statutory language which is being repealed.~~]

Section 1. General Provision. Appointing authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties.

Section 2. Dismissal. (1) The notice required by KRS 18A.095(6) and (7) may be combined provided all requirements are satisfied.

(2) When the employee is notified, copies of the notice of intent to dismiss and the notice of dismissal or other penalization shall be forwarded to the [~~Commissioner of~~] Personnel Cabinet Secretary [~~on the same date notice is delivered to the employee~~].

Section 3. Demotion. When the employee is notified, copies of the notice of demotion shall be forwarded to the [~~Commissioner of~~] Personnel Cabinet Secretary [~~on the same date notice is delivered to the employee~~].

Section 4. Suspension. (1) A suspension shall not exceed thirty (30) working days.

(2) An employee on initial probation [~~without status~~] may also be suspended for a period not to exceed thirty (30) days and shall be entitled to the same provisions of notice contained in KRS 18A.095(8) with the exception of the right of appeal.

(3) When the employee is notified, copies of the notice of suspension shall be forwarded to the [~~Commissioner of~~] Personnel Cabinet Secretary [~~on the same date notice is delivered to the employee~~].

Section 5. Disciplinary Fine. (1) A disciplinary fine shall not exceed ten (10) days' pay. The fine shall be computed on the basis of the employee's current salary. The fine shall not conflict with requirements of the Fair Labor Standards Act of 1938, 29 U.S.C. 201, or other minimum wage requirements established by legislative or executive authority.

(2) Prior to imposition of a disciplinary fine, the employee shall be notified in writing of the amount of the fine by the appointing authority [~~in writing of the amount of the fine~~].

(3) An employee on initial probation [~~without status~~] may also be fined for a period not to exceed ten (10) days and shall be entitled to the same provisions of notice contained in KRS 18A.095(8) with the exception of the right of appeal.

(4) When the employee is notified, copies of the notice of disciplinary fine shall be forwarded to the ~~[Commissioner of]~~ Personnel Cabinet Secretary ~~[on the same date notice is delivered to the employee].~~

MARK A. SIPEK, Executive Director, Personnel Board

APPROVED BY AGENCY: August 25, 2021

FILED WITH LRC: August 25, 2021 at 9:19 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 22, 2021, at 9:30 a.m. Eastern Time at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Stafford Easterling General Counsel, Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 695-5799, email stafford.easterling@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stafford Easterling

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation defines conditions for instituting disciplinary measures and the manner of notification.

(b) The necessity of this administrative regulation: This regulation is necessary to set the requirements of processing disciplinary actions.

(c) How this administrative regulation conforms to the content of the authorizing statutes: 18A.075, 18A.005 to 18A.200 specifies that the Board adopt a regulation describing conditions for properly instituting disciplinary measures and notification to the employee.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will continue to provide effective administration of the statutes by its requirements to process disciplinary actions.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment removes Chapter 13A from the Statutory Authority and adds 20 U.S.C. 201 as it relates to this regulation regarding a disciplinary fine.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to provide uniformity with the requirements of the Fair Labor Standards Act.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment verifies conformity with KRS 18A.075 and KRS 18A.0751 by fully describing the procedures for instituting a disciplinary action.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides clarity and consistently required for effectively processing disciplinary actions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects all state government agencies.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There will not be any new actions required of the entities identified in question (3) to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional cost to the entities to comply with this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Continued compliance of this regulation will provide uniformity among all entities identified in question 3.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no cost to implement this amendment.

(b) On a continuing basis: There will be no ongoing cost to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no need for a source of funding to implement and enforce this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will not be an increase in fees or a necessity in funding to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted employees the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Personnel Board, Personnel Cabinet, and all other State Government Agencies required to administer disciplinary actions.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.075 and 18A.0751.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated.

(c) How much will it cost to administer this program for the first year? There are no estimated costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. There are no estimated costs for subsequent years to administer the amendments to this regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There should be no increase or decrease in the cost to administer this administrative regulation.